

TESTIMONY OF THE HONORABLE MIKE JOHANNIS
UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON AGRICULTURE
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Chairman Goodlatte, Mr. Peterson, Members of the Committee, thank you for holding this important hearing today and for the opportunity to testify before you. Accompanying me today are Dr. Keith Collins, USDA's Chief Economist and Dr. Ron DeHaven, Administrator of USDA's Animal and Plant Health Inspection Service (APHIS). They will be available to assist me in answering any questions you might have.

Before I begin, I want to thank you for the close, positive working relationships that we have begun forging. It is a pleasure to appear in my first hearing before this Committee as Secretary, and I look forward to building upon the productive foundation that we are establishing on behalf of American food and agriculture.

I have said frequently that addressing Bovine Spongiform Encephalopathy (BSE) issues, particularly as they relate to trade disruptions, would be my top priority as Secretary. The actions that the U.S. Department of Agriculture and the federal government are taking in regard to BSE are potentially precedent-setting and could affect international trade patterns for years to come, with important economic implications for our cattle producers and the entire beef industry. Therefore, our actions must be undertaken with the utmost deliberation, using science as the basis. In the absence of that scientific foundation, sanitary and phytosanitary (SPS) restrictions will be used arbitrarily by many nations, without any basis of protecting human, animal and plant life and health.

Accordingly, this hearing could not be timelier, and I appreciate the opportunity it provides to closely examine some useful and valid questions. I want to be very clear that while protecting human and animal health must remain our top priorities, I am confident that we can seek to return to normal patterns of international commerce in beef and cattle by continuing to use science as the basis for decision making by U.S. regulatory authorities and our trading partners.

Almost one year ago, on March 8, 2004, USDA published a notice reopening the comment period on a rule to establish minimal-risk regions for BSE (the "minimal-risk rule"), following the December 23, 2003, discovery of a single case of BSE in the United States in a cow of Canadian origin.

In the time since then, much has transpired:

On March 15, 2004, consistent with the recommendations of an International Review Team (IRT) of scientific advisers, USDA announced that beginning June 1 it would implement an enhanced BSE surveillance program to test as many high-risk

animals as possible over a 12- to 18-month period. We wanted once and for all to clearly ascertain whether we had BSE in our cattle herd and, if so, how prevalent it might be. USDA began the work of setting up the infrastructure required, including laboratory equipment and certification, staff training, outreach efforts, and licensing and approval of rapid tests. The plan was reviewed by the IRT, which characterized it as “comprehensive, scientifically based and address[ing] the most important points regarding BSE surveillance in animals.”

On June 1, 2004, the enhanced surveillance program began. Our goal is to test as many high-risk cattle as possible in 12-18 months. If we test 268,500 high risk animals we will be able to detect the presence of as few as five targeted, high-risk cattle with BSE at a 99 percent confidence level. At the time, USDA officials consistently stated that the surveillance plan might uncover additional BSE-positive animals. To date, some nine months later, more than 242,000 high-risk animals have been tested, all of which have been negative.

In order to help raise awareness among animal-health professionals and livestock producers about potential BSE cases, education and outreach have also been critical components of these efforts. These activities have included advertisements in industry publications, media articles, presentations at trade shows, and other materials. The role of producers, renderers and others in helping obtain samples of high-risk animals has been indispensable to the success of our surveillance program, and the cooperation we have received has been outstanding.

On December 29, 2004, USDA announced the final rule establishing minimal-risk regions, which designated Canada as the first minimal-risk region for BSE, and which will become effective on March 7, 2005. Preparations are currently underway to ensure a coordinated and orderly reopening of the border on that date.

On January 2, 2005, Canada confirmed its second domestic case of BSE in a cow that was born in October of 1996 (the first since May 20, 2003). It was followed nine days later by a third case, an 81-month-old cow.

On January 24, 2005, USDA dispatched a technical team to Canada. We sent the team to investigate the efficacy of Canada’s ruminant to ruminant feed ban because the animal was born shortly after the implementation of that ban and to determine if there are any potential links among the positive animals. We have appreciated Canada’s willingness to cooperate and assist us in these efforts.

The team was composed of experts from APHIS and other relevant, partner agencies.

Just last week, on February 25, we released the results of the investigation relating to Canada’s feed ban. Based on a review of inspection records and on-site observations, the team found that Canada has a robust inspection program, that overall compliance with the feed ban is good, and that the feed ban is reducing the risk of transmission of BSE in

the Canadian cattle population. Where isolated issues were found to exist, they were related mostly to areas of documentation and record-keeping.

The team's final epidemiological report investigating possible links of the positive animals is still pending, and will be helpful as USDA proceeds with a rule allowing imports of live cattle from animals 30 months of age and over.

The Minimal-Risk Rule

As you are aware, USDA's minimal-risk rule has come under legal challenge. I will address the process of promulgating the rule, which was transparent, deliberative and science-based.

Two rounds of public comment were conducted on the rule, with more than 3,300 comments received.

The final rule establishes criteria for geographic regions to be recognized as presenting minimal risk of introducing BSE into the United States. It places Canada in the minimal-risk category, and defines the requirements that must be met for the import of certain ruminants and ruminant products from Canada. A minimal-risk region can include a region in which BSE-infected animals have been diagnosed, but where sufficient risk-mitigation measures have been put in place to make the introduction of BSE into the United States unlikely.

As you are aware, the rule originally allowed the import of beef products from animals of all ages. However, on February 9, 2005, because our investigation in Canada would not be complete by March 7, I ordered that the portion of the rule allowing beef products from animals 30 months and over be delayed. USDA plans to move forward expeditiously with a plan including rule-making to allow imports of live cattle from animals over 30 months of age and over.

Because the rule that goes into effect on March 7 allows the import of live cattle under 30 months of age, it is useful to note the risk mitigation measures. These include: proper animal identification; accompanying animal health certification that includes information on age, origin, destination, and responsible parties; the movement of the cattle to feedlots or slaughter facilities in sealed containers; the prohibition on cattle moving to more than one feedlot in the United States; and just as in U.S. cattle, the removal of specified risk materials (SRMs) at slaughter.

For live sheep and goats under 12 months of age, all of the same mitigation measures apply, except for the requirement that SRMs be removed from the animal at slaughter.

We remain very confident that the combination of all of these requirements, in addition to the animal and public health measures that Canada has in place to prevent the

spread of BSE, along with the extensive U.S. regulatory food-safety and animal-health systems, provide the utmost protection to U.S. consumers and livestock.

USDA continues to undertake several steps to ensure Canada's compliance with its BSE regulations. In addition to the investigation that I already discussed, USDA's Food Safety and Inspection Service in December 2004 conducted an intensive audit of Canada's compliance with the BSE requirements of the United States, with particular attention to SRM removal. FSIS visited several facilities that slaughter cattle under 30 months of age and determined that they are effectively implementing the BSE regulations.

Last month, FSIS conducted a similar BSE audit of Canadian plants that slaughter cattle 30 months and older. Canada currently has only seven such plants that are certified to export meat to the United States.

The Role of Science

I simply cannot emphasize strongly enough the central role of science in this entire process, particularly with regard to the rigorous evaluation of risk.

Since the discovery of the first case of BSE in Great Britain in 1986, we have learned a tremendous amount about this disease. That knowledge has greatly informed our regulatory systems and response efforts.

We have learned that the single most important thing we can do to protect human health regarding BSE is the removal of SRMs from the food supply. It is because of the strong systems the United States has put in place already, especially the removal of SRMs from the human food supply and the prohibition of ruminant and certain other animal proteins in ruminant feed, that we can be confident of the safety of our beef supply and that the spread of BSE has been prevented in this nation.

After Canada reported its first case of BSE in May 2003, USDA conducted a comprehensive risk analysis to review the potential threat it posed. The initial analysis followed the recommended structure of the World Organization for Animal Health, or OIE, and drew on findings from the Harvard-Tuskegee BSE risk assessment, findings from the epidemiological investigation of BSE in Canada, and information on Canadian BSE surveillance and feed ban, and history of imports of cattle and meat and bone meal from countries known to have BSE.

The results of that analysis, available on the USDA Website, confirmed that Canada has the necessary safeguards in place to protect U.S. consumers and livestock against BSE. These mitigation measures include the removal of SRMs from the food chain supply, a ruminant-to-ruminant feed ban, a strong national surveillance program and import restrictions. The extensive risk assessment conducted as part of USDA's rulemaking process also took into careful consideration the possibility that Canada could experience additional cases of BSE.

In the risk analysis update for the final rule, USDA also considered the additional risk protection from new slaughter requirement procedures, such as the prohibition on the use of downer animals for food.

The public commented on the risk assessment that accompanied the proposed rule and the Explanatory Note released following the finding of BSE in a cow in Washington State. Over a period of months, USDA carefully considered these comments, and responses were published with the final rule. The comments were beneficial to the final risk analysis. The risk analysis was reviewed internally at USDA and by Dr. William Hueston, an international expert on BSE and a member of the International Review Team.

The OIE recommends the use of risk assessment to manage human and animal health risks of BSE. OIE guidelines, based on current scientific understanding, recognize that there are different levels of risk in countries or regions, and suggest how trade may safely occur according to the levels of risk. USDA used the OIE guidelines as a basis in developing our regulations defining Canada as a minimal risk country.

Cattle and Beef Trade Impacts

While SPS regulations protecting human and animal health are the foremost concern, USDA also has examined the potential economic impacts of the minimal-risk rule and related BSE trade issues, as required by Executive Order 12866.

For more than three months following the May 20, 2003, BSE discovery in Canada, all imports of Canadian ruminants and ruminant products were barred. Then, certain Canadian ruminant products for which there is inherently lower risk were allowed to enter under permit beginning August 2003.

For all of 2003, the United States imported 336,000 metric tons of beef from Canada. Imports increased to an estimated 476,000 metric tons in 2004, up nearly 42 percent and back to about the level that prevailed in years prior to 2003.

Because the border has been closed to live cattle since May 2003, imports of fed and feeder cattle under 30 months are expected to increase over historic levels in 2005, which is expected to drive up U.S. beef production, reduce beef prices slightly and, consequently, reduce cattle prices. The cost-benefit analysis of the original minimal risk rule was based on Canada's cattle population as of July 1, 2004, and the cross-border price differential at that time. USDA now estimates that about 1.3 million Canadian animals may be imported in all of 2005, down from previous estimates of 1.5 million to 2 million head.

In addition, delaying the effective date for resuming import of beef products from animals over 30 months has narrowed our projection of price effects. We now project a

decline in fed cattle prices of 2.6 percent lower than if no additional trade in live cattle were to occur, down from 3.2 percent in the earlier projection. The projection also assumes that Asian markets do not open to our beef during 2005.

The precise economic effects will depend on the timing and volume of cattle and beef imports from Canada. If USDA's price forecast turns out to be correct, that would be the third-highest annual fed cattle price on record. Cattle futures prices may be less affected than indicated by our forecast, as market prices have likely already reflected some probability of the border opening.

At the same time, I have been concerned about the effect that the closure of the border has been having on the restructuring of the cross-border beef industry. We are already seeing additional processing capacity in Canada, and further delays will only exacerbate that trend, leading to long-term change.

In addition, to the extent that we can continue to open markets that are currently closed to our beef, U.S. cattle price prospects will strengthen.

U.S. market-maintenance activities have been critical in helping restore our beef export markets. In 2003, the total export value of U.S. beef and ruminant products was \$7.5 billion. After December 23, 2003, 64 percent of that market was immediately closed. Today, we have recovered well over a third of that, so that 41 percent of that market (\$3.1 billion) remains closed. Two countries – Japan (\$1.5 billion) and Korea (\$800 million) – account for nearly three-quarters of the existing closures.

Opening the Japanese Market

As a leader in the critical Asian markets, Japan is a vital market to reopen to U.S. beef exports. We are aware that the decision to resume trade in this market will set an important precedent for trade resumption in many other markets. Therefore we have endeavored to use science in our ongoing efforts. Efforts to re-open this market have drawn on resources across the federal government and at the highest political levels. As I have previously said, this issue has occupied much of my first few days as Secretary. Just last week, I met with Ambassador Kato and also wrote to my counterpart, Minister Shimamura, on the importance of this issue. At the same time, Ambassador Baker continued to press this issue with Government of Japan officials until his very last days in Tokyo, and other U.S. Government officials continue to contact their counterparts. On February 19, Secretary of State Rice personally raised this issue in a meeting with the Japanese Foreign Minister.

These efforts are just the latest in many policy discussions and technical exchanges over the past 13 months. Indeed, the issue has been a major focus of direct discussions between President Bush and Japanese Prime Minister Koizumi.

On October 23, 2004, Japan and the United States developed a framework to allow the resumption of bilateral beef trade following the conclusion of regulatory

processes in both countries. As a step toward the resumption of normal trade, the agreement establishes an interim special marketing program, known as the Beef Export Verification (BEV) Program, to allow the United States to sell beef and beef products to Japanese importers from animals 20 months of age and under. Animal age will be determined through a combination of production records and physiological (grading) means. We are now working with Japanese officials to gain approval of the BEV under their regulatory process.

I have repeatedly pressed Japanese officials to set a date certain for the resumption of U.S. beef exports to Japan. However, additional requests from Japan for data regarding grading and the plodding regulatory process that Japan insists on using could delay that process. Additional delays could further complicate relations between the United States and Japan.

While we are focusing on Japan because of our important trading relationship and its leadership role in the region, we are also pursuing efforts to reopen all of the markets that have been closed to us. We are actively engaged with Korea, Hong Kong, Taiwan, China, Egypt, and Russia and have specific actions underway in each market to get trade resumed. I would be pleased to provide Members upon request additional detail on these and other secondary markets. While the progress that has been made has taken far longer than we had hoped, progress is indeed being made. And, I have stated that USDA, and indeed the entire U.S. Government, will exert every effort to resolve the matter at the earliest possible time.

Conclusion

As traditional trade barriers such as tariffs are lowered, our focus to eliminate unjustified non-tariff barriers such as non-science based SPS regulatory measures become all the more important to maintain the flow of mutually beneficial trade. For USDA, a common touchstone across these issues is the need to maintain consistency and predictability, to base our domestic regulations on science and to encourage the use of science-based solutions within the international community. The United States has long been a leader in this regard, including negotiating the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures during the Uruguay Round.

Even before the discovery of a single case of BSE in the United States, USDA had begun talking with other countries about the need for international trade standards to keep pace with the science, and we will redouble our efforts in this regard.

It is also critical that domestic trade rules reflect the current state of knowledge regarding BSE, and here the United States is leading, as well. We are confident that trade can be resumed with countries where BSE has been discovered, contingent upon strong protections within those countries, as well as the robust and effective regulatory system those imports are subject to when they enter the United States. These facts are reflected in the minimal-risk rule.

At the same time, we will continue to work with our trading partners to ensure the ongoing strength of their own BSE protection systems, especially the removal of SRMs and implementation of the feed ban. While trade opportunities are multiplying in an increasingly global marketplace, we must always remain mindful of our paramount responsibility to protect the public health and animal health.

In summary, I am confident that we are continuing to keep the protection of public and animal health foremost in our concerns. It is critical that we continue to use science as a basis for our decisions and regulations, and that the United States maintain its leadership role in advancing our scientific understanding of these kinds of SPS-related issues and appropriate science-based responses.

Mr. Chairman, thank you once again for holding this important hearing. I would now be pleased to take any questions you or other members may have.

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